



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

WPA Form 7 – Extension Permit for Orders of Conditions

090-535

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by DEP

A. General Information

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



Bk 15744 Pg 19 #1882
01-28-2019 @ 08:17a
Essex North Registry

1. Applicant:

Town of Andover Conservation Commiss

Name

36 Bartlet Street

Mailing Address

Andover

City/Town

MA

State

01810

Zip Code

2. Property Owner (if different):

Name

Mailing Address

City/Town

State

Zip Code

B. Authorization

The Order of Conditions (or Extension Permit) issued to the applicant or property owner listed above on:

May 19, 1992

Date

Issued by:

Andover

Conservation Commission

for work at:

Foster's Pond

Street Address

Assessor's Map/Plat Number

Parcel/Lot Number

recorded at the Registry of Deeds for:

Essex North

County

3813 and 14479

Book

146 and 89

Page

Certificate (if registered land)

is hereby extended until:

Jan. 4, 2022

Date

November 17, 2015, extended to 1-4-2019

Date the Order was last extended (if applicable)

This date can be no more than 3 years from the expiration date of the Order of Conditions or the latest extension. Only unexpired Orders of Conditions or Extension may be extended.

This Extension Permit must be signed by a majority of the Conservation Commission and a copy sent to the applicant and the appropriate DEP Regional Office

(<http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html>).

Signatures:

12-04-2018

Date

[Handwritten signatures]

[Handwritten signature: Kevin J. ...]
[Handwritten signature: Alexander ...]



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C. Recording Confirmation

The applicant shall record this document in accordance with General Condition 8 of the Order of Conditions (see below), complete the form attached to this Extension Permit, have it stamped by the Registry of Deeds, and return it to the Conservation Commission.

Note: General Condition 8 of the Order of Conditions requires the applicant, prior to commencement of work, to record the final Order (or in this case, the Extension Permit for the Order of Conditions) in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, it shall be noted in the Registry's Granter Index under the name of the owner of the land upon which the proposed work is to be done. In the case of registered land, it shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done.

Detach this page and submit it to the Conservation Commission prior to the expiration of the Order of Conditions subject to this Extension Permit.

To:

Andover
 Conservation Commission

Please be advised that the Extension Permit to the Order of Conditions for the project at:

Foster's Pond 090-535
 Project Location DEP File Number

has been recorded at the Registry of Deeds of:

County

for:

Property Owner

and has been noted in the chain of title of the affected property in accordance with General Condition 8 of the original Order of Conditions on:

5-19-92 3813 146
 Date Book Page

If recorded land the instrument number which identifies this transaction is:

Instrument Number

If registered land, the document number which identifies this transaction is:

Document Number

Signature of Applicant

DEP File No. 90-535 Amended Special Conditions
Control of Aquatic Nuisance Vegetation in Foster's Pond

A. Special Conditions Sections 12.1 through 12.15, as incorporated in the Order of Conditions for this project originally issued on May 5, 1992, and extended through January 4, 2019, shall remain in full force and effect until the expiration date set forth in Special Condition 12.36, below.

B. The following additional Special Conditions shall apply to the herein-approved supplemental components of an integrated management plan to control nuisance vegetation in Foster's Pond:

12.16 This Order approves (a) the application of Sonar (fluridone), as referenced in Special Condition 12.23, in an effort to control *Cabomba caroliniana* ("fanwort"); (b) the application of Reward (diquat) to control European naiad; (c) the application of Clipper (flumioxazin) to control fanwort (but only at such time as Clipper has been registered for use in water bodies in Massachusetts); (d) the application of copper sulfate or SeClear to control algae and reduce phosphorus; (e) the utilization of annual winter drawdowns not to exceed 18"; (f) the deployment of portable benthic barriers to control invasive vegetation; and (g) the utilization of diver-assisted suction harvesting ("DASH") to remove invasive vegetation.

12.17 The application of Sonar, Reward, and any other herbicide or algaecide approved herein and the utilization of winter drawdowns shall be undertaken in a manner consistent with the Final Generic Environmental Impact Report on *Eutrophication and Aquatic Plant Management in Massachusetts* (EOEA, 2004), as from time to time amended.

12.18 The Foster's Pond Corporation ("FPC") is hereby designated and responsible for the implementation of the supplemental components of the integrated management plan, in the manner set forth herein.

12.19 The FPC's designated contractor for the application of Sonar and/or Reward and/or any other herbicide or algaecide approved herein shall obtain from the DEP Division of Watershed Management, Bureau of Resource Protection, a valid BRP WM 04 permit to apply said herbicide or algaecide to Foster's Pond. A copy of such BRP WM 04 permit shall be submitted to the Conservation Commission prior to initiating Sonar or Reward herbicide treatment.

12.20 The FPC's designated contractor for the application of herbicide or algaecide pursuant to this Order shall be an applicator licensed in the aquatic weed category by the Massachusetts Department of Agricultural Resources, Pesticide Bureau. Applications shall follow all product label directions.

12.21 In the event of any fish kill within Foster's Pond, the FPC and licensed applicator shall immediately cease and desist and contact the DEP's Emergency Response section at 1-888-304-1133; the Department of Fish and Game's Westborough office at (508) 389-6300 (during normal working hours); or the Boston 24-hour response line at 1-800-632-8075.

12.22 Refueling, servicing, and repair of motorized watercraft and service vehicles associated with lake surveys and treatments shall take place at least 100 feet from the boundary of the resource area. Equipment operators shall be prepared immediately to respond to, and contain, accidental releases of fuel, motor oil, and/or aquatic herbicides. On-site absorbent materials shall be readily available in sufficient quantity and maintained for use in containing accidental spills. If an accidental release of fuel, motor oil, lubricating oils, etc. occurs, the issuing authority shall be immediately notified, and contaminated areas shall be treated according to guidelines established by DEP's Bureau of Waste Site Cleanup (BWSC). Staging and long-term storage of aquatic herbicides and/or algaecides shall take place outside the jurisdiction of the Department and the Conservation Commission.

12.23 The Sonar herbicide treatment program shall be performed in accordance with the "*Aquatic Plant Survey and Nuisance Aquatic Plant Management Plan/Foster's Pond*" (2004) prepared for the FPC by Aquatic Control Technology, Inc., which is incorporated herein by reference.

12.24 Prior to the initial Sonar herbicide treatment, the designated applicator shall attend a meeting of the Andover Board of Health and Conservation Commission for the purpose of reviewing the treatment schedule, application procedures, and temporary water use restrictions.

12.25 Following the coordination meeting referenced in Special Condition 12.24 above and prior to the initial Sonar herbicide treatment, the FPC shall mail a written notice to all abutters, with a copy to the Commission, containing the treatment schedule and any temporary water use restrictions.

12.26 At the time of any herbicide or algaecide treatment, shoreline areas of the pond must be posted, particularly at beaches and areas of common access, with signs warning the general public of any water use restrictions stated on the chemical label. These signs shall clearly state that the chemical treatment is being conducted pursuant to a license issued by the Department of Environmental Protection.

12.27 On or before December 31 of any year during which Sonar or Reward herbicide treatment has been applied pursuant to this Order, the FPC's designated applicator shall file with the Commission a report which shall include post-treatment plant survey data; results of herbicide or algaecide testing/monitoring during the treatment process; effectiveness of the treatment program on the targeted plant species; and any observations or reports of adverse effects of treatment on fish, wildlife, or other nontarget organisms.

12.28 No herbicide or algaecide treatment shall be applied unless the Conservation Commission shall, by majority vote, have approved in advance the schedule and program for herbicide or algaecide treatment for that year.

12.29 The FPC shall notify in writing the Department of Fish & Game, Division of Fisheries and Wildlife ("MassWildlife") and the Conservation Commission prior to commencing annual winter drawdowns and any drawdown in connection with Sonar herbicide treatment. All drawdowns

shall be subject to such additional conditions and requirements as may be imposed by MassWildlife.

12.30 During annual winter drawdowns, water levels shall be reduced gradually over a two- to three-week period or longer (typically, between November 1 and December 1) to allow wildlife to move to deeper water, locate alternate lodge sites, or relocate food caches prior to ice formation and substrate freezing, and to minimize impacts to fish spawning and other non-target organisms that may have water level requirements for reproduction. Annual winter drawdowns shall not exceed 18", measured from the bottom of the permanent spillway of the Foster's Pond dam.

12.31 Subject to Special Condition 12.29, above, the FPC may draw down the level of the pond by not more than 12" (or, subject to the approval of MassWildlife, may extend the duration of a winter drawdown) for the purpose of minimizing the escape of Sonar from the pond and the introduction of Sonar into downstream wetlands, during a period of treatment.

12.32. The FPC may deploy up to ten prefabricated benthic barriers from time to time to control fanwort or other invasive nuisance vegetation. Before deploying benthic barriers larger than 5' x 5', or more than ten such barriers, the FPC shall notify the the Conservation Commission at least one week in advance, indicating the size of the barriers and the approximate locations, and shall conform the deployment to any restrictions the Conservation Department may require. Before utilizing DASH, the FPC shall notify the Conservation Commission at least one week in advance, indicating the name of the contractor to be used, the dates of the work, the approximate locations in which the work will be undertaken, the estimated aggregate area to be harvested, and the location(s) for disposing of spoils. If the estimated aggregate area exceeds 0.5 acres, the FPC shall provide notice at least three weeks in advance. DASH undertaken pursuant to this Order shall conform to any further restrictions the Conservation Department may require.

12.33 The FPC shall maintain the dam, shall keep it clear of woody brush, and shall cooperate with the Andover Department of Public Works in keeping the Rattlesnake Hill Road outlet culverts clear of debris as necessary.

12.34 The FPC shall notify the Conservation Commission, in writing, 48 hours before the commencement of any Sonar or Reward application or any drawdown and shall advise the Conservation Commission of the name(s) and telephone number(s) of the person(s) responsible for site compliance with this Order. This list shall be resubmitted if any changes are made to it.

12.35 As a component of the integrated management program to control nuisance vegetation, the FPC shall maintain on-going efforts to educate pond abutters, other residents in the area of the pond, and the general public on watershed management practices to reduce the introduction of nutrients to the pond.

12.36 EXPIRATION DATE. Pursuant to General Conditions #4(b), the Commission finds that special circumstances warrant an extended period for undertaking the work authorized herein. This Amended Order of Conditions authorizes an ongoing, long-term integrated management plan to control aquatic nuisance vegetation, in particular the control of an invasive species

including fanwort and European naiad. Accordingly, this Order of Conditions, as amended, shall expire on January 4, 2022.